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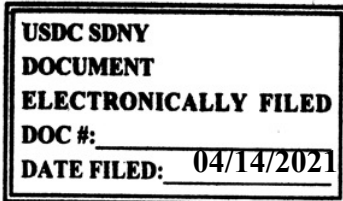
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April 12, 2021

VIA ECF

Hon. Katharine H. Parker
 United States Magistrate Judge
 Southern District of New York
 Daniel Patrick Moynihan United States Courthouse
 500 Pearl Street
 New York, New York 10007

APPLICATION GRANTED

Katharine H. Parker
 Hon. Katharine H. Parker, U.S.M.J.

Re: *Spectrum Dynamics Medical Limited v. General Electric Company, et al.*,
 Case No.: 18-cv-11386 (VSB)

04/14/2021

Dear Judge Parker:

On behalf of Defendant General Electric Company ("GE"), we write pursuant to Federal Rule of Civil Procedure 5.2(e), Your Honor's Individual Rule of Practice III(d), and the parties' Stipulated Confidentiality and Protective Order (the "Protective Order") (Dkt. 156) to request leave to file with redactions and under seal the Letter Motion to Compel Plaintiff's Response to Defendants' Second Set of Interrogatories (the "Motion") filed today.

The presumption of public access to judicial documents can be overcome if countervailing factors warrant confidentiality. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006); *see also Nixon v. Warner Commc'ns Inc.*, 435 U.S. 589, 598 (1978). Sealing of records may be justified to preserve "higher values," including the need to protect an entity from competitive injury. *Lugosch*, 435 F.3d at 124; *see also Tropical Sails Corp. v. Yext, Inc.*, No. 14-cv-7582, 2016 U.S. Dist. LEXIS 49029, at *10-11 (S.D.N.Y. Apr. 12) (risk of "competitive injury is sufficiently serious to warrant protection" of proprietary business information). Consistent with this, courts routinely permit sealing and redaction of competitively sensitive proprietary business information. *See, e.g., Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015); *Encyclopedia Brown Prods., Ltd. v. Home Box Office, Inc.*, 26 F. Supp. 2d 606, 614 (S.D.N.Y. 1998); *see also Nixon*, 435 U.S. at 598 (recognizing need to seal information that might "harm a litigant's competitive standing").

Here, the Motion contains references to GE's development of a certain product that is not publicly available. That information is competitively sensitive and proprietary information of GE that, if disclosed, would pose a substantial risk of harm to GE and constitutes "Highly Confidential – Attorneys' Eyes Only" information under the Protective Order. (Dkt. 156.). This is the sort of competitively sensitive information that courts consistently protect from disclosure. *See, e.g., Ferring B.V. v. Allergan, Inc.*, No. 12-cv-2650, 2017 U.S. Dist. LEXIS 150239, at *16 (S.D.N.Y. Sep. 7) (granting motion to seal documents containing proprietary information related to product development); *Encyclopedia Brown*, 26 F. Supp. 2d at 612 (sealing documents reflecting sensitive trade secret information). This is particularly the case where, as here, the information to be sealed was not relevant to the Court's resolution of any issue. *Cf. Bernstein v. Bernstein Litowitz Berger*

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& *Grossman LLP*, 814 F. 3d 132, 143 (2d Cir. 2016) (denying sealing request where documents were “highly relevant to the exercise of Article III judicial power”).

GE’s request is narrowly tailored to protect GE’s highly confidential information and does not deprive the public of access to critical information. GE respectfully requests that the Court permit filing the letter motion under seal.

Very truly yours,

/s/ Marla R. Butler

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cc: All Counsel of Record via ECF